

NSR Stakeholder Meeting Notes May 26, 2004 – Columbia, SC

Attendees:

Ruth Albright, Keith Bartlett, Liz Basil, Tracy Beer, Robbie Brown, Dave Clark, Hanneke Counts, Terry Davenport, Laura Dzamka, Tommy Flynn, Brian Hill, John Hursey, Duane Mummert, Heather Preston, Lisa Shelton, Ben Williams, Jim Witkowski, Henk van der Meyden, Richard Weber, Maria Zufall

Introduction

Members of the stakeholder group were introduced and signed an attendance sheet that will be posted to the DHEC website.

Opening Comments – Heather Preston

- A tentative timeline was presented to the group. The goal is to have a revised regulation sent to the statehouse for approval in January of 2005. This is necessary to meet the January 2, 2006 deadline established by EPA in the Dec. 31, 2002 final rule for submittal of a revised State Implementation Plan.
- The Department will be publishing a second notice of drafting (NOD) for this revision in the *South Carolina State Register* in June. The purpose of this NOD is simply to extend the comment period.
- The group asked if Nonattainment NSR was within the scope of this stakeholder process. The Department confirmed that we are working on a Nonattainment NSR regulation and plan on having the stakeholder group review and comment on this. The Department hopes to submit both regulations as a package to the legislature.

Overview of NSR Changes – Robbie Brown

- An overview of the changes to the PSD regulation was provided. The Department is currently only considering the revisions that were promulgated on December 31, 2002. The October 27, 2003 revision concerning routine maintenance, repair and replacement will not be addressed due to a stay issued by the US Circuit Court.
- The presentation outlined the five areas changed by the December 2002 rule which included:
 - Baseline actual emissions.
 - “Actual to Projected Actual” applicability test.
 - Clean units.
 - Plantwide applicability limitations (PALs)
 - Pollution control projects (PCPs)
- Robbie then discussed the options the Department had as far as promulgating the PSD regulation, reasons for delaying work on the PSD changes, and the regulatory process that has occurred to date.
- Jim Witkowski stated that the Department already had the authority to provide Clean Units and PAL permits. Robbie pointed out that in the past, a PAL permit required BACT/LAER controls to be placed on every emissions unit while the new regulations do not require this.

General Discussion

Initial comments

- Staff introduced the Proposed Draft and let this guide the discussion portion of the meeting.
- Jim Witkowski commented that he appreciated the Department's efforts in making the changes to the PSD regulation clear. Had some concerns as to EPA's response to our changes. Tommy Flynn responded by saying that EPA has a copy of the changes and will be reviewing the changes after they complete two other states revisions.
- Tracy Beer wanted the Department to explain why malfunctions were removed from calculating baseline actual emissions and projected actual emissions. Robbie responded by stating the Department has never permitted malfunction emissions, and by doing so, you could potentially be "rewarding" these types of emissions by allowing them to be added to the baseline actual emissions. Tracy responded by saying there are some types of malfunctions that are unavoidable. Perhaps a compromise would be to allow some percentage of the malfunction emissions to be added into the baseline actual emissions. Robbie and John Hursey responded by stating that regulations are neutral because the Department is taking malfunctions out of the definition of baseline actual emissions and projected actual emissions. Also, enforcement of malfunction emissions is not automatic.
- Jim Witkowski stated that allowing malfunction emissions clearly exists in the MACT standards (Part 63 – General Provisions). He felt that by allowing sources to include malfunction emissions, you are not "rewarding" a source. This is actually an incentive for sources to reduce their malfunctions since they have to project their malfunction emissions. Jim felt that the MACT definition of malfunction could be a compromise. The Department responded by stating that leaving malfunctions in could potentially hurt a source because it could be easier to trigger PSD. Robbie mentioned that under the PAL monitoring, reporting and recordkeeping requirements, malfunction emissions were required to be calculated so all emissions are accounted for.
- The majority of the stakeholders had concerns about why the regulation required legislative review. The Department responded by saying that it takes a very, conservative approach to legislative review. With some exceptions, state law requires General Assembly approval of all regulations unless they are being promulgated to maintain compliance with federal law. The Department's position is that unless a regulation is incorporated *exactly* as the federal regulation is promulgated, legislative review is required. Since we are proposing to add clarification concerning the need to obtain minor source construction permits, we believe that this alone would trigger the requirement for legislative approval. Furthermore, there were other proposed changes made to the federal regulation that would require legislative review. Finally, since this is such a controversial revision, the Department believes it is prudent to allow the legislature the opportunity to approve it.
- Henk van der Meyden was concerned about request approvals for Clean Units under paragraph (x)(3)(iii) of Standard 7 pertaining to Title V modifications before the use of the Clean Unit exemption. Robbie responded that yes, a facility would need to request a change to their Title V permit. This process would take approximately 3 months from the time of the request to approval. There was some confusion as to how the requirements of (x)(3)(iii) and (x)(6) relate. Staff will meet to try and clarify this language in the regulation.

Format of future meetings

- The stakeholders felt that future meetings should be driven by the comments submitted to the Department. The stakeholders would like to meet on a monthly basis in order to review comments and work on revising the regulation. Stakeholders were asked to submit comments on the initial draft by June 11th to allow Department staff an opportunity to respond prior to the next meeting.

Website information

- Tommy Flynn informed the workgroup that there are plans to place all documents generated as a result of these meetings on the BAQ website. Details to follow at the next meeting.

Next Meeting

- June 23, 2004; 10:00 am – 1:00 pm; DHEC Room 4380.

Comments for Next Meeting due: June 11, 2004